

JUL 25 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARVIN ALBERTO GARCIA,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 04-74297

Agency No. A38-867-827

MEMORANDUM^{*}

MARVIN GARCIA,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 05-73199

Agency No. A38-867-827

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

MARVIN ALEXI GARCIA, aka Spooks,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-75262

Agency No. A38-867-827

On Petition for Review of an Order of the
Board of Immigration Appeals

Argued and Submitted June 11, 2008
San Francisco, California

Before: SCHROEDER, LEAVY, and WALKER^{**}, Circuit Judges.

In these three consolidated immigration cases, Marvin Alberto Garcia, a native and citizen of Honduras and former lawful permanent resident of the United States, petitions for review of the Board of Immigration Appeals' ("BIA") orders dismissing his appeals from an immigration judge's ("IJ") decisions denying his motion to reopen his original 1996 deportation proceedings (No. 04-74297) and denying his motion to terminate his 2005 removal proceedings (No. 06-75262). In addition, following the district court's transfer of Garcia's habeas corpus petition

^{**} The Honorable John M. Walker, Jr., Senior United States Circuit Judge for the Second Circuit, sitting by designation.

to us under § 106(c) of the REAL ID Act, Garcia challenges his 1996 deportation proceedings (No. 05-73199). Our jurisdiction is governed by 8 U.S.C. § 1252. We review the BIA's findings of fact for substantial evidence, *Moran v. Ashcroft*, 395 F.3d 1089, 1091 (9th Cir. 2005), and we deny the petition for review in No. 06-75262, and dismiss as moot the petitions in Nos. 04-74297 and 05-73199.

The BIA properly determined that Garcia was removeable as charged in the November 26, 2004, Notice to Appear, as an alien present in the United States without having been admitted or paroled, 8 U.S.C. § 1182(a)(6)(A)(i), and as an alien who had twice previously been ordered removed and who sought admission within 20 years of the date of his last removal. 8 U.S.C. § 1182(a)(9)(A)(ii). The agency also properly denied Garcia's request for permission to reenter nunc pro tunc because he was presently inadmissible and, therefore, ineligible for adjustment of status. 8 U.S.C. § 1182(a)(9)(A)(ii).

Because the November 3, 2005, order of removal is lawful and valid, Garcia's challenges to his July 22, 1996, deportation order are moot.

PETITION FOR REVIEW IN 06-75272 DENIED; PETITIONS FOR REVIEW IN 04-74297 and 05-73199 DISMISSED.